CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

MEMORANDUM

TO: **John H. Robertus**
Executive Officer

ATTACHMENT 8

FROM: **Hashim Navrozali, WRCE**
Industrial Compliance Unit

DATE: **November 7, 2002**

SUBJECT: **CONTINENTAL MARITIME OF SAN DIEGO INC.**
RESPONSE TO COMMENTS REGARDING
TENTATIVE ORDER NO. R9-2002-0282.
ITEM NO. 11

The Regional Board received comment letters from Continental Maritime of San Diego Inc. (CMSD), the Environmental Health Coalition (EHC), and Briggs Law Corporation (representing Divers' Environmental Conservation Organization, *DECO*) regarding tentative Order No. R9-2002-0282. Brief paraphrases of the concerns listed in each letter and staff's response are provided below. The comments in the letters have been numbered by staff to correlate with the comments and responses below. In some cases, multiple comments with similar concerns are grouped into a single comment and response. The specific part of the tentative Order that is being commented upon is also identified. The agenda material includes copies of the letters received.

A. CMSD letter, dated October 31, 2002

Comment 1.
Fact Sheet (*page 2, paragraph 6*)
The Fact Sheet (*page 2, paragraph 6*) erroneously designated Pier No. 1 as part of CMSD's leased property and omitted Pier No. 7 from the list of non-operational piers.

CMSD's letter indicated that it does not lease Pier No. 1 from the San Diego Unified Port District. In addition, Pier No. 7 needs to be included in the list of non-operational piers.

Response: Staff has incorporated these corrections into the Fact Sheet.

Comment 2.
Fact Sheet (*page 3, paragraph 4*)
The *Report of Waste Discharge* submitted by CMSD indicated that the average flow rate of fire protection water discharged from each fire pump located at Pier Nos. 4 and 6 is 2000 gpm. The Fact Sheet (*page 3, paragraph 4*) reflected these specifications.

CMSD's letter provided clarification that 2000 gpm flow rate was only applicable to fire fighting situations and not to normal day to day non-emergency conditions. The letter indicated that a jockey pump located at Pier No. 6 provides fire protection water to ships berthed at both Pier No. 4 and Pier No. 6. The jockey pump enables a 125 psi pressure to be maintained in the ships' fire mains. The jockey pump must flow at a minimum of 90 gpm in order to prevent pump damage due to cavitation. In the event that ships' salt water usage is reduced to less than 90 gpm, a bypass valve on the jockey pump discharges 90 gpm of salt water back to San Diego Bay. According to CMSD, the bypass valve is activated almost 90 percent of the time. The other fire pumps at CMSD (i.e. one 2000 gpm pump at Pier No. 6, and two 2000 gpm pumps at Pier No. 4) are only used in the event that the jockey pump is taken out of service. These pumps normally discharge overpressure releases to San Diego Bay at the rate of 300 gpm. Under normal circumstances the 2000 gpm pumps are only used for testing purposes once a week for 10 minutes.

Response: Staff has modified the Fact Sheet, tentative Order, and tentative MRP to incorporate the change in descriptions and flow rates associated with the fire protection pumps.

Comment 3.
Fact Sheet (*page 4, paragraph 2*)
The Fact Sheet (*page 4, paragraph 2*) indicated that all storm water is processed in CMSD's wastewater treatment tank farm prior to discharge to the City of San Diego's sanitary sewer system.

CMSD's letter stated that storm water is normally analyzed and directly discharged to the sanitary sewer system, without treatment in the tank farm.

Response: Staff concurs with CMSD that treatment of storm water in the tank farm is not needed since storm water generally complies with the industrial pretreatment discharge limits specified in the Industrial User Permit issued to CMSD by the Metropolitan Wastewater Department.

Staff has incorporated this correction into the Fact Sheet.

Comment 4.
Fact Sheet (*page 7, paragraph 1*)
The Fact Sheet (*page 7, paragraph 1*) indicated that the storm drain in the maintenance area at CMSD is equipped with a valve with lock. When the secondary containment area around the maintenance area accumulates rainfall, the tank department is contacted to pump water to the tank farm treatment system.

CMSD's letter indicated that storm water from the maintenance area is pumped automatically to control catchment basin 8.1 by a float switch activated electric submersible pump. Should the water exceed the storage capacity of the tanks in the catchment basin, the storm water will be diverted to Outfall No. 10 for discharge to San Diego Bay. Outfall No. 10 has a manually operated valve that is normally locked and only opened during overflow conditions.

Response: Staff has incorporated this correction into the Fact Sheet.

Comment 5.
Fact Sheet (*page 14*) and Tentative Monitoring and Reporting Program (*page M-11, Section F*)
The Fact Sheet (*page 14*) and tentative Monitoring and Reporting Program (MRP) (*page M-11, Section F*) states that pursuant to the Implementation Policy CMSD must monitor its fire protection system effluent for the presence of 17 congeners of chlorinated dibenzodioxins (2,3,7,8-CDDs) and chlorinated dibenzofurans (2,3,7,8-CDFs). The tentative MRP requires CMSD to conduct sampling for the congeners once during the wet weather period (October – March).

CMSD's letter stated that since wet weather sampling for the congeners was already conducted on March 20, 2002, it may be appropriate to require dry weather sampling.

Response: Staff concurs with CMSD. The Fact Sheet and tentative MRP have been revised to reflect a dry weather sampling requirement for the congeners.

Comment 6.
Tentative Monitoring and Reporting Program (*page M-6, Section D.2.B.iii(a)*)
The tentative MRP (*page M-6, Section D.2.B.iii(a)*) states that visual observations of stored or contained storm water shall occur at the time of release.

CMSD's letter has asked Regional Board staff to clarify the applicability of visual observation requirements. CMSD assumes that the visual observations are only required for storm water releases to San Diego Bay and not to the sanitary sewer system.

Response: Staff concurs with CMSD's interpretation of the visual observation requirements. The tentative MRP has been modified to clearly state that the visual observations requirement is only applicable for storm water releases to San Diego Bay.

Comment 7.
Tentative Monitoring and Reporting Program (*page M-13, Sections K.a.iv and K.a.v)*
CMSD assumes that *Section K.a.v* (*Sediment Sampling Collection Plan*) supercedes *Section K.a.iv* (*Surficial Grab Sampling Procedures*) of the tentative MRP (*page M-13*). CMSD has requested Regional Board staff's concurrence regarding this assumption.

Response: Staff concurs with CMSD. *Section K.a.v* states that sediment samples shall be collected in accordance with current *Sample Collection Plan* that was submitted under Order No. 97-37 and approved by the Regional Board. The current *Sample Collection Plan* was already implemented under Order 97-37 and approved by Regional Board staff. The *Sample Collection*

Plan addresses all collection protocols including surficial grab sampling procedures and in effect supercedes the provisions of *Section K.a.iv* of the tentative MRP.

The tentative MRP has been revised to reflect the deletion of *Section K.a.iv*.

Comment 8.
Tentative Monitoring and Reporting Program (*page M-18, Section K.d.ii*)
The tentative MRP (*page M-18, Section K.d.ii*) states that the discharger shall submit annual *trend curves* for each sediment monitored constituent, in which concentrations are plotted as a function of time. The discharger shall also determine if a statistically significant change (increase or decrease) in sediment concentrations has occurred over time for each contaminant, relative to reference concentrations. In making this determination, the discharger shall employ a statistical method that is best suited for the data available (parametric vs. non-parametric test).

CMSD's letter stated that the discharger currently employs the Analysis of Variance (ANOVA) method to test if a statistically significant change in concentrations of a target contaminant has occurred over a period of time. The ANOVA method is essentially applicable to parametric tests.
Response: Pursuant to *Section K.d.ii* of the tentative MRP, staff recommends that CMSD only use the ANOVA test if it deems the distribution of the concentration of a target contaminant in the sediment to be parametric in nature. No change to tentative MRP required.

B. Environmental Health Coalition (EHC) letter, dated October 30, 2002

EHC's letter dated October 30, 2002 provided comments on the tentative Order's for both South West Marine and CMSD. Only those comments applicable to CMSD have been addressed in this *response to comments* document.

Comment 1.
Tentative Order (*page 3, Finding 10*)
Finding 10 of the tentative Order should be deleted. The fact that the U.S. Navy was given four years to undermine protection of San Diego Bay by establishing its own discharge limits [for toxicity in storm water] is no cause for celebration and should not be 'encouraged' for the shipyards.

Response: The tentative Order requires CMSD to monitor toxicity in storm water discharges. The Regional Board encourages CMSD to participate in the Navy study since more data and important information on toxicity in storm water runoff and in the Bay could be collected during the course of this study. Participation in the Navy study does not relieve CMSD from the toxicity limits that are established in the tentative Order.

Comments 3, 5, & 9.
Tentative Order *(page 7, Discharge Specification, B.1)*

Copper was the only constituent for which additional monitoring was established, although other pollutants were present in the discharge. Standards and discharge limits need to be added for copper, antimony, arsenic, selenium, and zinc, whether or not they exceeded the current criteria. Limits must be included to ensure compliance with the criteria in the California Toxics Rule (CTR).

Response: Besides copper, other metals and metalloids were detected in the fire protection water discharge as well as in the receiving water but the water quality objectives specified in the CTR were not exceeded. The discharges from the pumps serving the fire protection systems of ships berthed at CMSD do not come in contact with significant contaminants or industrial processes. The discharges are essentially excess pressure releases or bypass flows from the fire pumps. These releases are necessary to prevent damage to the impellers and valves of the pumps due to cavitation. The average daily volume of water released from the fire pumps at CMSD to San Diego Bay is approximately 0.13 MGD (based on a 90 gpm flow rate and a 24-hour continuous operation per day). The circulation of the seawater in the ship's fire mains is crucial in maintaining a state of readiness in the event a fire starts on the ship while being serviced at CMSD. Copper is the principle priority pollutant that may be entrained in the discharges from the fire pumps due to potential contact with eroding piping, pump impellers, and valve bodies. All other metals including antimony, arsenic, nickel and zinc have little or no potential of being added to the discharge.

The data submitted by CMSD was evaluated pursuant to Section 1.3 the *Implementation Policy* and it was determined that no effluent limits for any of the detected constituents (not including copper) are necessary for the fire protection water. The tentative Order does require monitoring of several metals and metalloids, including copper, zinc, and arsenic. This data will be used to evaluate continuous compliance with the water quality criteria established in the CTR. In addition, staff will conduct a Reasonable Potential Analysis (RPA) for copper once adequate data has been obtained. If the RPA identifies a need for effluent limits, staff will calculate limits for copper using procedures specified in Section 1.4 of the Implementation Policy. The permit may be re-opened at a later date to incorporate the results of this analysis.

Antimony and selenium, which are not considered to be typical shipyard pollutants, were detected at low levels and do not need to be monitored.

Comments 4 & 6.
Tentative Order *(page 7, Discharge Specification, B.1)*
EHC is opposed to the allowance of pollutant intake 'credits'. The Bay is highly polluted and there is no reason to allow pollution to be discharged in excess of criteria. EHC also opposed the allowance for toxicity 'credits' for point source discharges.

Response: Toxicity intake credits were previously allowed under Order No. 97-37 (General Permit) and are continued in the tentative Order for discharges that do not ordinarily come in contact with pollutants. These discharges, such as fire protection water, are Bay water that is pumped from the Bay, circulated through hoses and pipes, and discharged back into the Bay.

Historical data has shown that toxicity tests on these discharges have not violated the toxicity limits specified in the General Permit.

Comment 7.
Tentative Order *(page 8, Receiving Water Limitation, C)*
The receiving water limits are not numeric and specific. Narrative limits are established but no corresponding receiving water monitoring is required.
Response: Numeric receiving water quality objectives were considered during the Reasonable Potential Analysis (RPA), pursuant to the *Implementation Policy*. Most narrative receiving water limits, such as *Receiving Water Limitation, C.3* of the tentative Order ("Marine communities, including vertebrate, invertebrate, and plant species, shall not be degraded.") need to be evaluated through additional monitoring or a site-specific study. If the Regional Board has reason to believe that CMSD could be in violation of one or more of the narrative receiving water limitations, the Regional Board can request additional information pursuant to *California Water Code,* Section 13267.

Comment 8.
Tentative Order *(page 10, Provision, E.7)*
It is not clear from *Provision 7* of the tentative Order on what happens after a Best Management Practice (BMP) fails and a discharge causes or contributes to a violation. It needs to be made clear that if there is a violation of the permit, enforcement action will be taken.

Response: Enforcement action will be taken pursuant to the *Water Quality Enforcement Policy* and the *California Water Code,* Section 13385, if a waste discharge requirement is violated. It is not necessary to state in the tentative Order that specific enforcement action will or will not be taken.

Comment 10.
Tentative Monitoring and Reporting Program (*page M-12, Spill/Illicit Discharge Log, H)*
It is unclear how pollutant discharges from vessels that are in the yard being worked on will be handled.

Response: These discharges are prohibited and are addressed in *Prohibition 6* of the tentative Order. Regional Board staff plans to make an addition to the tentative *Monitoring and Reporting Program* (MRP), *Spill/Illicit Discharge Log*, *H*, that clarifies that pollutant discharges from vessels have to be included in the logs.

Comment 11.
Tentative Monitoring and Reporting Program *(page M-13, Waste Hauling Log, J)*
The name, address, and contact and license number of waste haulers should be required.

Response: CMSD is required to keep records of all hazardous waste hauling logs (manifests), which include this information. The information can be reviewed at the facility or through the

Department of Toxic Substances Control (Hazardous Waste Tracking System) and does not need to be included in the current waste hauling log submissions.

Comment 12.
Tentative Monitoring and Reporting Program (page M-13, *Sediment Chemistry Monitoring, K*)
The shoreline should be monitored so that we can see if BMPs implemented at the shipyards are working. The practice of compositing sediment samples may dilute the results of contamination and should not be allowed.
Response: Sediment samples along the shoreline have been and will continue to be part of the *Sediment Chemistry Monitoring* specified in the Monitoring and Reporting Program. The majority of sediment sample stations at CMSD are along the shoreline and by the piers.

Staff concurs with EHC that the compositing method could dilute the contamination levels contained in sediment samples for the localized sampling sites associated with CMSD. Furthermore, the sediment collection and sampling procedures being employed for the sediment cleanup assessment of shipyards in San Diego Bay also do not permit compositing.

The sample collection method, specified in *Sediment Chemistry Monitoring, Sections K.a.ii and K.a.iii*, will be revised accordingly to reflect that no compositing will be permitted.

Comment 13.
General Comment
An emerging issue that needs to be investigated is regarding the quality and potential need for treatment of runoff after the first flush has been diverted. EHC recommends that a working group or other effort on a parallel track be established to begin examining and possibly address issues of treatment of runoff, improvements of BMPs, and other actions necessary to ensure that runoff meets protection standards of San Diego Bay.

Response: The comment/recommendation was noted.

C. Divers' Environmental Conservation Organization letter, dated October 30, 2002

Comment 1.
Tentative Order *(page 5, Prohibition A.4)*
The tentative Order lacks absolute prohibitions on first-flush discharges. Why allow any discharges of storm water to San Diego Bay that might contain priority pollutants when the shipyards have ample resources to detain all first flush discharges?

Response: *Prohibition 4*, page 5, of the tentative Order prohibits the discharge of the first flush of storm water runoff unless the discharge is in compliance with the toxicity limits specified in the tentative Order. If the first flush meets the toxicity limitations of the tentative Order, then the discharge does not pose a significant threat to water quality. The *Implementation Policy*

implements the CTR regulation that includes the list of the 126 priority pollutants. The *Implementation Policy* does not apply to storm water discharges (see page 1, footnote 1, of the *Implementation Policy*).

Comment 2.
General Comment on *Conflict between CTR and Tentative Order*
A big problem with the tentative Order is that it fails to prohibit discharges that cause or contribute to a violation of the CTR's water-quality criteria. The tentative Order must contain effluent-based limitations for every priority pollutant identified in the CTR that 'causes or has the reasonable potential to cause' a violation of the CTR. The Regional Board should determine what priority pollutants require effluent limitations.

Response: Regional Board evaluated CMSD point source discharge data and conducted a Reasonable Potential Analysis (RPA), pursuant to the *Implementation Policy*. Please refer to the Fact Sheet, page 12-14, of the tentative Order, which explains the details of the analysis.

Comment 3.
General Comment on *Lack of Monitoring Requirements*
The tentative Order lacks monitoring requirements for discharges of industrial storm water to receiving waters. Federal regulations however require each permit to contain monitoring requirements.

Response: The tentative Order requires storm water monitoring for 20 parameters, including acute toxicity. Monitoring has to be done for two storms per year in the case that storm water is discharged to the Bay. Reference to monitoring methods and other requirements are included in the tentative Order and can be found in the Monitoring and Reporting Program, *Effluent Monitoring, D.2.c*, page M-7.